

3/28/19

3:37 P.M.

Chapter No. 417
19/HR43/R389
AM ICB

HOUSE BILL NO. 983

Originated in House



Clerk

HOUSE BILL NO. 983

AN ACT TO AUTHORIZE THE ISSUANCE OF \$45,000,000.00 IN STATE GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS AT THE STATE-OWNED SHIPYARD LOCATED IN JACKSON COUNTY, MISSISSIPPI; TO PROVIDE THAT THE ISSUANCE OF SUCH BONDS SHALL BE CONDITIONED ON THE LESSEE INCURRING A CERTAIN AMOUNT OF DEBT AND/OR DEDICATING A CERTAIN AMOUNT OF FUNDS FOR CAPITAL IMPROVEMENTS, CAPITAL INVESTMENTS OR CAPITAL UPGRADES TO SHIPYARDS IN MISSISSIPPI OWNED OR LEASED BY SUCH LESSEE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Accreted value" of any bonds means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bonds, plus (ii) the interest accrued thereon from the issue date to the date of computation at the rate, compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

(b) "Commission" means the State Bond Commission.

(c) "State shipyard" means the shipyard property owned by the state and located in Jackson County, Mississippi.

(d) "State" means the State of Mississippi.

(e) "Authority" means the Mississippi Development Authority.

(2) (a) (i) A special fund, to be designated as the "2019 State Shipyard Improvement Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed, in the discretion of the authority, to pay the costs incurred in making such capital improvements at the state shipyard as are considered by the authority to be part of the five-year plan to modernize the state shipyard and keep it competitive with other shipyards.

(iii) Monies in the special fund may be used to reimburse reasonable actual and necessary costs incurred by the authority in providing assistance related to a project for which funding is provided under this act. The authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph

shall not exceed Three Hundred Thousand Dollars (\$300,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(iv) Monies in the special fund may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided under this act. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(b) Amounts deposited into such special fund shall be disbursed to pay the costs of the projects described in this subsection. If any money in the special fund is not used within four (4) years after the date the proceeds of the bonds authorized under this act are deposited into the fund, then the authority shall provide an accounting of the unused monies to the commission. Promptly after the commission has certified, by resolution duly adopted, that the projects described in this subsection shall have been completed, abandoned, or cannot be

completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this act, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission. Before money in the special fund may be used for the projects described in this subsection, the authority shall require that the lessee of the shipyard enter into binding commitments regarding at least the following:

(i) That the lessee shall maintain a certain minimum number of jobs and/or economic impact over a certain period of time as determined by the authority (any required jobs must be held by persons eligible for employment in the United States under applicable state and federal law); and

(ii) That if the lessee fails to satisfy any such commitments, the lessee must repay an amount equal to all or a portion of the funds provided by the state under this act as determined by the authority.

(3) (a) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in subsection (2) of this section. No bonds shall be issued under this act until the authority is provided proof that the lessee of the shipyard has incurred debt or has otherwise irrevocably dedicated funds or a combination of debt and funds in the amount

of not less than Ninety Million Dollars (\$90,000,000.00) used by the lessee in calendar year 2006 or thereafter, for capital improvements, capital investments or capital upgrades at facilities in Jackson County, Mississippi, owned or leased by the lessee. The debt or dedication of funds or combination of debt and funds required of the lessee under this section shall be in addition to any debt or funds required of the lessee under Section 4 of Chapter 501, Laws of 2003, Section 4 of Chapter 1, Laws of 2004 Third Extraordinary Session, Section 4 of Chapter 475, 2006 Regular Session, Section 17, Chapter 472, Laws of 2015, Section 25, Chapter 511, Laws of 2016, Section 3, Chapter 390, Laws of 2017, and Section 4, Chapter 452, Laws of 2018. In addition, no bonds shall be issued under this act until the authority has certified that the lessee has satisfied the minimum jobs requirements of Section 3(2) of Chapter 501, Laws of 2003, Section 3(2) of Chapter 1, Laws of 2004 Third Extraordinary Session, and Section 3 of Chapter 475, 2006 Regular Session. Upon the adoption of a resolution by the authority, declaring that the lessee has incurred the required amount of debt and/or irrevocable dedication of funds and maintained the required minimum number of jobs and/or economic impact and declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the authority shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission, in its discretion, may act as the

issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under this act shall not exceed Forty-five Million Dollars (\$45,000,000.00). No bonds shall be issued under this section after July 1, 2023.

(b) Any investment earnings on amounts deposited into the special fund created in subsection (2) of this section shall be used to pay debt service on bonds issued under this section, in accordance with the proceedings authorizing issuance of such bonds.

(4) The principal of and interest on the bonds authorized under this section shall be payable in the manner provided in this subsection. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in

such form, all as shall be determined by resolution of the commission.

(5) The bonds authorized by this section shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

(6) All bonds and interest coupons issued under the provisions of this section have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this

section, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The commission shall act as issuing agent for the bonds authorized under this section, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under this section from the proceeds derived from the sale of such bonds. The commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, selected by the commission.

The commission, when issuing any bonds under the authority of this section, may provide that bonds, at the option of the State

of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) The bonds issued under the provisions of this section are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi are irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this subsection.

(9) Upon the issuance and sale of bonds under the provisions of this section, the commission shall transfer the proceeds of any such sale or sales to the special fund created in subsection (2) of this section. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

(10) The bonds authorized under this section may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this section. Any

resolution providing for the issuance of bonds under the provisions of this section shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

(11) The bonds authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

(12) Any holder of bonds issued under the provisions of this section or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under this section, or under such resolution, and may enforce and compel performance of all duties required by this section to be performed, in order to provide for the payment of bonds and interest thereon.

(13) All bonds issued under the provisions of this section shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such

bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

(14) Bonds issued under the provisions of this section and income therefrom shall be exempt from all taxation in the State of Mississippi.

(15) The proceeds of the bonds issued under this section shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

(16) The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under this section; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(17) This section shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this section shall not be deemed to repeal or to be in derogation of any existing law of this state.

(18) All improvements made to the state shipyard with the proceeds of bonds issued pursuant to this act shall, as state owned property, be exempt from ad valorem taxation, except ad valorem taxation for school district purposes.

SECTION 2. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 20, 2019


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 19, 2019


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

3/28/2019

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